

Department of Defense

223.7203

(7) The temporary storage of materials of other Federal agencies in order to provide assistance and refuge for commercial carriers of such material during a transportation emergency;

(8) The storage of any material that is not owned by DoD, if the Secretary of the military department concerned determines that the material is required or generated by a private person in connection with the authorized and compatible use by that person of an industrial-type DoD facility; or

(9) The treatment and disposal of any non-DoD-owned material if the Secretary of the military department concerned—

(i) Determines that the material is required or generated by a private person in connection with the authorized and compatible commercial use by that person of an industrial-type facility of that military department; and

(ii) Enters into a contract with that person that—

(A) Is consistent with the best interest of national defense and environmental security; and

(B) Provides for that person's continued financial and environmental responsibility and liability with regard to the material.

(b) The Secretary of Defense, where DoD Instruction 4715.6 applies, may grant exceptions to the prohibition of 10 U.S.C. 2692 when essential to protect the health and safety of the public from imminent danger.

[58 FR 28466, May 13, 1993, as amended at 60 FR 13076, Mar. 10, 1995; 60 FR 61597, Nov. 30, 1995; 67 FR 61516, Oct. 1, 2002]

223.7103 Contract clause.

(a) Use the clause at 252.223-7006, Prohibition on Storage and Disposal of Toxic and Hazardous Materials, in all solicitations and contracts which require, may require, or permit contractor performance on a DoD installation.

(b) Use the clause at 252.223-7006 with its Alternate I, when the Secretary of the military department issues a determination under the exception at 223.7102(a)(9).

[60 FR 13076, Mar. 10, 1995]

Subpart 223.72—Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives

SOURCE: 61 FR 7743, Feb. 29, 1996, unless otherwise noted.

223.7200 Definition.

“Arms, ammunition, and explosives (AA&E),” as used in this subpart, means those items within the scope (chapter 1, paragraph B) of DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives.

223.7201 Policy.

(a) The requirements of DoD 5100.76-M, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives, shall be applied to contracts when—

(1) AA&E will be provided to the contractor or subcontractor as Government-furnished property; or

(2) The principal development, production, manufacture, or purchase of AA&E is for DoD use.

(b) The requirements of DoD 5100.76-M need not be applied to contracts when—

(1) The AA&E to be acquired under the contract is a commercial item within the meaning of FAR 2.101; or

(2) The contract will be performed in a Government-owned contractor-operated ammunition production facility. However, if subcontracts issued under such a contract will meet the criteria of paragraph (a) of this section, the requirements of DoD 5100.76-M shall apply.

223.7202 Preaward responsibilities.

When an acquisition involves AA&E, technical or requirements personnel shall specify in the purchase request—

(a) That AA&E is involved; and

(b) Which physical security requirements of DoD 5100.76-M apply.

223.7203 Contract clause.

Use the clause at 252.223-7007, Safeguarding Sensitive Conventional Arms, Ammunition, and Explosives, in all solicitations and contracts to which DoD 5100.76-M applies, in accordance with